

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CEDAR PETROCHEMICALS, INC.,

Plaintiff,

-v-

No. 06 Civ. 3972 (LTS)(JCF)

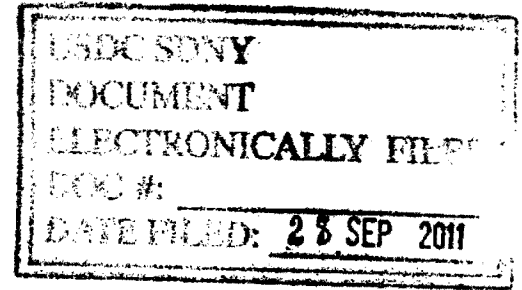
DONGBU HANNONG CHEMICAL CO., LTD.,

Defendant.
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MEMORANDUM ORDER

On January 14, 2011, Magistrate Judge Francis issued a Report and Recommendation ("Report") denying Defendant Dongbu Hannong Chemical Co., Ltd.'s Motion for Sanctions for the Spoliation of Evidence, Motion in Limine to Exclude the Expert Reports of Martin East and John Minton, and Motion to Strike the Declaration of Martin East and the Gijbels Affidavit. Defendant filed a timely objection to the denial of the Motion to Exclude the Expert Reports and the Motion to Strike the Declaration of Martin East. Specifically, Defendant argues that Judge Francis erred in finding (1) that Cedar's experts, Martin East and John Minton, were qualified to testify as to the cause of the phenol's discoloration; (2) that Mr. East and Mr. Minton's expert opinions were reliable under Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993); and (3) that the East Declaration was within the proper scope of Mr. East's expert report.

This Court reviews a Magistrate Judge's non-dispositive, discovery ruling pursuant to Rule 72(a) of the Federal Rules of Civil Procedure. Under Rule 72(a), a court must




“modify or set aside any part of the order that is clearly erroneous or is contrary to law.” Fed. R. Civ. P. 72(a). “A finding is ‘clearly erroneous’ when, although there is evidence to support it, the reviewing court on the entire record is left with the definite and firm conviction that a mistake has been committed.” Nikkal Indus., Ltd. v. Salton, Inc., 689 F. Supp. 187, 189 (S.D.N.Y. 1988) (quotation omitted). This is a highly deferential standard, and “[t]he party seeking to overturn a magistrate judge’s decision thus carries a heavy burden.” U2 Home Entm’t, Inc. v. Hong Wei Int’l Trading Inc., No. 04 Civ. 6189, 2007 WL 2327068, at *1 (S.D.N.Y. Aug. 13, 2007).

The Court has thoroughly reviewed the Report as well as Defendant’s objections thereto and finds Magistrate Judge Francis’ thorough analysis to be free of clear error and consistent with the law. Accordingly, Defendant’s objections are overruled. This Order resolves docket entry 114.

SO ORDERED.

Dated: New York, New York
September 28, 2011



LAURA TAYLOR SWAIN
United States District Judge